

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-1378-2013

Date of Decision: 29.04.2022

Joginder Singh

..... Petitioner

Versus

Pepsu Road Transport Corporation Nabha Road, Patiala and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present : Mr. Vikas Singh, Advocate, and  
Mr. A.S.Pannu, Advocate,  
for the petitioner.

Mr. Sandeep Khunger, Advocate,  
for the respondents.

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**RAJBIR SEHRAWAT, J. (ORAL)**

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari quashing the part of the award dated 06.12.2010 (Annexure P-2), whereby the reference of the dispute was answered against the petitioner and the relief of reinstatement with all consequential benefits has been declined to the petitioner.

The facts, as involved in the present petition, are that on 26.07.1987, the petitioner was Conductor on the Pepsu Road Transport Corporation bus, which was enroute Bathinda to Chandigarh. This bus was checked by the checking staff after crossing the Bhikhi. There were total 27 passengers at that point of time, out of which 19 passengers boarded for different destinations were found without ticket. The respondent-department

conducted a departmental inquiry. Finding the petitioner to be guilty, he was dismissed from service. Regarding the said decision of the respondent-department, the petitioner had raised an industrial dispute, which was ultimately referred to the Labour Court. The Labour Court had answered the reference against the petitioner. Hence, the present petition has been filed.

Arguing the case, the learned counsel for the petitioner has submitted that the departmental inquiry conducted by the respondent-department was not proper. The allegation against the petitioner was that he had not issued the tickets despite having charged the fair from the passengers. However, no passenger was examined during the course of inquiry. Hence, there is no evidence against the petitioner. The Labour Court has committed illegality in relying upon the said inquiry report. Learned counsel for the petitioner has further submitted that his bus had a breakdown before reaching Bhikhi and the same was repaired by the departmental mechanic. Hence, no passengers were permitted to board the bus between the point where it had earlier broken down and Bhikhi. The passengers had boarded the bus only from Bhikhi and the checking staff conducted checking only after three kilometers of travel from Bhikhi. Therefore, some passengers could not be issued the tickets. Issuance of tickets to all the passengers in such a short time was not humanly possible. The alleged act of the petitioner was not intentional. Hence, the petitioner has been wrongly punished. At least, the quantum of sentence should have been modified by the Labour Court by exercising powers under Section 11-A of the Industrial Disputes Act.

On the other hand, learned counsel for the respondents has

submitted that the undisputed fact is that the bus was found carrying 19 passengers boarded for different destinations to be without tickets. The passengers had disclosed that they had already paid the fair to the petitioner. Hence, the argument of the learned counsel for the petitioner that the bus had travelled only three kilometers from Bhikhi is totally non-sustainable. Once the petitioner had charged the money from all the passengers then he cannot take excuse that he could not issue the tickets because sufficient time had not elapsed before checking. Qua the validity of the inquiry, the learned counsel for the respondent has submitted that the checking staff has been duly examined during the inquiry proceedings. Through their statements, it has been duly proved that the passengers were travelling without tickets and that the petitioner had charged money from the passengers ranging from Rs.1 to Rs.3 per person as per their destinations. Hence, it is submitted that the petitioner was rightly dismissed from service. Learned counsel for the respondents has relied upon the judgment rendered by the Hon'ble Supreme Court in a case titled as '**The Managing Director The North East Karnataka Road Transport Corporation Vs. K. Murti, 2007(1) S.C.T. 454.**' Learned counsel has further submitted that the petitioner was dismissed from service in the year 1988, whereas, he raised the dispute only in the year 2005. The award was passed by the Labour Court in the year 2010 and he had approached the High Court only in the year 2013. Hence, it is submitted that the petitioner himself is guilty of delay and latches at each and every stage of the proceedings. He does not deserves any relief as such.

Having heard learned counsel for the parties, this Court finds substance in the arguments raised by the learned counsel for the respondents.

The very fact that the petitioner has taken a plea that very short time had elapsed before the checking staff entered the bus after the same having started from Bhikhi establishes the fact that he is admitting that 19 passengers were found travelling without ticket at the time of checking. Hence, the only question remains whether he had charged any money from any person or not. The checking staff have duly deposed that the passengers had disclosed that they had paid money for the tickets, ranging from Rs.1 to Rs.3 per person, as per their destination. Hence, the plea of the petitioner that sufficient time had not elapsed before the checking staff entered the bus is nothing but an excuse being put up by the petitioner. If he had charged the money, then he cannot successfully plead that sufficient time had not elapsed before the bus was checked by the checking staff.

Although, the learned counsel for the petitioner has raised the issue that the receipt of money by the petitioner from the passengers is not proved on record because none of the passengers, who are alleged to have paid the money to the petitioner, have been examined as a witness, however, examination of any passenger, as such, is not necessary. The checking staff had no personal grudge against the petitioner. They had no motivation to fabricate the evidence against the petitioner. Hence, once they have deposed that the passengers had told them that they had paid the money, their testimony has to be given due credence. In view of the peculiar situation that the passengers, after having reached their destination, may not be even traceable or may not have any interest in any misconduct or wrongdoing of the petitioner, as such, itself is sufficient to not insist upon the testimony of any passenger during the inquiry against the conductor. The said aspect has

duly been clarified by the Hon'ble Supreme Court in the judgment rendered in **K.Murti's** case (supra). The reliance of the learned counsel for the respondent on the said judgment is found to be well placed. Hence, the Labour Court has not committed any illegality in holding that the inquiry was properly held by the respondent-department.

Although, the learned counsel for the petitioner has submitted that the Labour Court should have shown some compassion and should have interfered, at least, qua the punishment imposed upon the petitioner, however, this court does not find any substance even in this argument. The petitioner held the position of trust, in which he was supposed to deal with the Government money. He was found embezzling the public money itself. Hence, he cannot be heard to plead for any sympathy; as such. Moreover, in case the departmental inquiry is held by the respondent-department, then the aspect of quantum of punishment is better left to the punishing authority alone. Hence, this Court does not find any ground to interfere even qua that aspect.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

**(RAJBIR SEHRAWAT)**  
**JUDGE**

**29.04.2022**  
adhikari

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No